



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/560,199

12/08/2005

John A. Gelardi

CPG 03-12 MB

5532

48418 7590 12/19/2008
PARKS KNOWLTON LLC
1117 PERIMETER CENTER WEST
SUITE E402
ATLANTA, GA 30338

EXAMINER

ALIE, GHASSEM

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

12/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/560,199 | Applicant(s) GELARDI, JOHN A. | |
| | Examiner GHASSEM ALIE | Art Unit 3724 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-16 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 3-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04/08/08 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election without traverse of Invention III (Claims 10-16) in the reply filed on 08/15/08 is acknowledged.
2. Claims 1 and 2-9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 18/15/08.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 10-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 10, "the sealed-cutting apparatus is configured to be coupled to a package" is confusing. It is not clear whether the package is the same as a package that includes a package seal or it is a box. There are more than two packages in the claim and they are not differentiated from each other. In addition, it appears that the claims are directed to "a seal-cutting apparatus" not a combination of a seal-cutting apparatus and a package or a box. Regarding claims 12-15, "a blister package" is confusing. It is not clear whether the blister package in the claims 12-15 is the same blister package set forth in claim 11 or is another blister package.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3724

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 10-16, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Ikeda (5,127,161). Regarding claim 1, Ikeda teaches a seal-cutting apparatus 11 including a receiving channel 12, the channel being at partially defined by an edge of a substantially planar first surface 15 and a substantially planar second surface 18, which includes the wall that receives the blade 19. Ikeda also teaches that the first surface 15 is substantially perpendicular to the second surface 18. Ikeda also teaches a cutting member 19 located at the second surface 18 and extending toward the first surface 15, wherein the seal-cutting apparatus is capable of at least partially sever a package seal of a package when the package is translated through the receiving channel 12 and at least partially past the cutting member 19. Ikeda also teaches that the apparatus is capable of being coupled to a package 13. It should be noted that the package could be defined as an envelope and the seal-cutting apparatus is capable of being coupled to a package. See Figs. 1-7 in Ikeda.

Regarding claims 11-16, Ikeda teaches everything noted above including that the package could include a blister package; the first surface 15 is configured to slideably engage at least one blister of a blister package; the second surface 18 is configured to slideably engage at least one blister of a blister package; the receiving channel is configured to allow insertion of at least one edge of a blister package; when a blister package is engaged with the first and second surfaces and translated through the receiving channel, at least a portion of the package seal is at least partially severed by the cutting member 19; and at least a portion

Art Unit: 3724

of the cutting member projects away from the second surface 18 and extends into a relief nick 15b formed at the first surface 15.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

To the degree that it could be argued that the cutter in Ikeda is not configured to couple to a package, the rejection below is applied.

8. Claims 1-7, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda in view of Jacquemin (1,452,341). Regarding claim 1, Ikeda teaches a seal-cutting apparatus 11 including a receiving channel 12, the channel being at partially defined by an edge of a substantially planar first surface 15 and a substantially planar second surface 18, which includes the wall that receives the blade 19. Ikeda also teaches that the first surface 15 is substantially perpendicular to the second surface 18. Ikeda also teaches a cutting member 19 located at the second surface 18 and extending toward the first surface 15, wherein the seal-cutting apparatus is capable of at least partially sever a package seal of a package when the package is translated through the receiving channel 12 and at least partially past the cutting member 19. See Figs. 1-7 in Ikeda. Ikeda does not explicitly teach that the apparatus is configured to be coupled to a package 13. However, the use of a hand-held cutter

Art Unit: 3724

configured to be coupled to a package by a clip is well known in the art such as taught by Jacquemin. See Figs. 1-3 in Jacquemin. It would have been obvious to a person of ordinary skill in the art to provide Ikeda's cutter with the clip, as taught by Jacquemin, in order to enable the cutter to both hold a package and cut a package.

Regarding claims 11-16, Ikeda teaches everything noted above including that the package could include a blister package; the first surface 15 is configured to slideably engage at least one blister of a blister package; the second surface 18 is configured to slideably engage at least one blister of a blister package; the receiving channel is configured to allow insertion of at least one edge of a blister package; when a blister package is engaged with the first and second surfaces and translated through the receiving channel, at least a portion of the package seal is at least partially severed by the cutting member 19; and at least a portion of the cutting member projects away from the second surface 18 and extends into a relief nick 15b formed at the first surface 15.

Response to Arguments

9. Applicant's arguments with respect to claims 10-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Holste (2,291,294) Horning, Jr. (5,007,171); and Lok (4,873,767) teach a seal-cutting apparatus.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at

Application/Control Number: 10/560,199

Page 7

Art Unit: 3724

866-217-9197 (toll-free).

/Ghassem Ali/

Primary Examiner, Art Unit 3724

December 16, 2008